

# THE ROLES AND RESPONSIBILITIES OF THE STRATA COUNCIL

## STRATA COUNCILS

The strata council plays a critical role in governing the strata corporation on behalf of all the strata owners. It carries out the duties and affairs of the strata corporation between general meetings, usually at strata council meetings.

## ROLE AND RESPONSIBILITIES

The strata council is the elected executive body for the strata corporation. Please note, in addition to a strata council for the strata corporation, any sections will also have a section executive. The strata council (or section executive) has key responsibilities.

The strata council (or section executive) can hire a strata manager to perform some or most of the functions of the strata council. However, if a strata council has delegated certain powers to a strata manager, the strata council is still ultimately responsible for ensuring that its obligations under the *Strata Property Act* are fulfilled.

The strata council's role is to:

- Act as the managing body for the strata corporation
- Make daily decisions that enable the strata corporation to operate smoothly and
- Operate according to the *Strata Property Act*, regulations, bylaws and rules, or a majority vote of the owners

The *Strata Property Act* states that the strata council's role is to "exercise the powers and perform the duties of the strata corporation, including the enforcement of bylaws and rules."

## DUTIES OF THE STRATA COUNCIL

The specific duties of the strata council include the following:

- Calling and conducting general meetings
- Preparing the budget and financial statements

- Collecting strata fees and other money owed to the strata corporation
- Obtaining adequate strata corporation insurance
- Paying strata corporation bills
- Enforcing the bylaws and rules
- Exempting the application of rental restriction bylaws for individual owners based on hardship
- Making themselves accessible by providing a telephone number or some other method of contact
- Entering into strata corporation contracts and supervising the performance of duties under those contracts
- Hiring and supervising employees of the strata corporation
- Keeping a list of the names of owners and tenants, and similar documents
- Keeping all strata corporation records including depreciation reports or materials related to depreciation reports
- Making records available for inspection and copying for the owners for a charge of not more than 25 cents per page
- Completing “Form B: Information Certificates” and “Form F: Certificates of Payment”
- Directing investments and expenditures
- Approving strata lot alterations
- Granting owners and tenants short term exclusive use of common property

Although the strata council has a critical governing role, under the *Strata Property Act* there are many actions that need to be approved by a vote of the owners in the strata corporation rather than the council, such as creating and changing bylaws and approving special levies.

The owners can also pass a resolution by majority vote at general meetings to direct or restrict the actions of the strata council. However, the owners cannot restrict or limit the strata council if this:

- Is contrary to the *Strata Property Act*, regulations, or bylaws
- Interferes with the strata council’s ability to decide based on the facts whether:
  - A person has breached a bylaw or rule
  - A person should be fined
  - A person should be restricted from using a recreational facility
  - A person should be required under section 133(2) to pay the reasonable costs of remedying a contravention of the bylaws or rules or
  - An owner should be exempted under section 144 from a bylaw that limits rentals i.e. the “hardship exemption” allowed under rental restriction bylaws

## ELECTING THE STRATA COUNCIL

The strata council is usually elected every year at the annual general meeting, in accordance with the strata

corporation's bylaws.

The number of persons on the strata council is determined by the strata's bylaws. Under the Standard Bylaws (which can be amended) the number of strata council members set out in is between three and seven members. However, if there are fewer than four lots or four owners, then all owners are required to sit on the strata council.

The following persons are eligible to sit on strata council:

- All owners, including existing or past strata council members unless:
  - Their strata lot can be liened for money owing to the strata corporation, and a bylaw permits this restriction;
  - There are multiple owners of one strata lot, in which case, only one owner can sit on the strata council—unless all owners are on council, however each lot only has one vote. The Standard Bylaws (which can be amended) provide that if there are fewer than four strata lots or owners, then all owners must sit on the strata council;
- Representatives of corporate owners
- Tenants who have been assigned the owner's right to vote, by either: being a family member, as defined in the regulations; entering into a lease of three years or more; or the landlord delivering a written notice to the strata corporation which discloses the terms of the voting assignment.
- Different classes of persons, if a bylaw is created to permit certain classes of persons to sit on strata council, such as spouses not registered on title or children of owners.

## STRATA COUNCIL TERMS

The following provisions dealing with strata council terms and the early removal from a term are set out in the Standard Bylaws (which can be amended):

- A current strata council term ends and a new strata council term begins at the end of the annual general meeting in which the new strata council is elected.
- A strata council member can be removed, with or without cause, by a majority vote of the owners at a general meeting, and the owners must then elect a replacement strata council member.
- Removing all or one or more strata council members by majority vote can be an item of business in a special general meeting if holding a meeting is demanded in writing by at least 20% of the strata corporation's votes.
- If a strata council member is unwilling or unable to perform his or her duties for two months or longer, he or she can be replaced by a new strata council member to be appointed by the existing members of strata council – the new strata council member will hold the seat for the remainder of the replaced member's term.

- If all the members of the council resign or are unwilling or unable to act for two months or longer, a special general meeting may be held with at least 25% of the strata corporation's votes, to elect a new council by complying with the provisions of the *Strata Property Act*, the regulations and the bylaws respecting the calling and holding of meetings.

## STANDARD OF CARE AND CONFLICTS OF INTEREST

In exercising the powers and performing the duties of the strata corporation, each council member must act honestly and in good faith with a view to the best interests of the strata corporation, and exercise the care, diligence and skill of a reasonably prudent person in comparable circumstances.

The Standard Bylaws (which can be amended) provide that strata council members are not personally liable for anything they do, or do not do, in the course of acting as a strata council member, so long as they are acting honestly and in good faith.

However, strata council members are still liable for judgments against the strata corporation in their capacity as owner. The strata corporation can obtain errors and omissions insurance to insure strata council members for any liability resulting from mistakes incurred while acting as a strata council member.

Strata council members must ensure that they refrain from acting in their capacity as a strata council member if their personal interests conflict directly or indirectly with those of the strata corporation. To protect against conflicts of interest strata council members must:

- Disclose any personal interest they have in a contract, transaction or matter under consideration by the strata corporation.
- Disclose fully and promptly to the council the nature and extent of the interest.
- Abstain from voting on the contract, transaction or matter, and
- Leave the council meeting while the contract, transaction or matter is discussed, unless asked by council to be present to provide information, and while the council votes on the contract, transaction or matter.

## APPOINTING AN ADMINISTRATOR

If no eligible person or not enough eligible people in a strata corporation are willing to sit on the strata council, then the strata corporation, or an owner, tenant, mortgagee or other person having an interest in a strata lot, may apply to the Supreme Court of British Columbia for the appointment of an administrator to exercise the powers and perform the duties of the strata corporation.

The court may appoint an administrator if, in the court's opinion, the appointment of an administrator is in the

best interest of the strata corporation. The administrator is paid by the strata corporation.

This may result in the administrator taking on the responsibilities of the strata council, but it may also eliminate or interfere with the normal democratic functioning of the strata corporation and the rights of owners under the *Strata Property Act*. In particular, the court may:

- Appoint the administrator for an indefinite or set period
- Set the administrator's remuneration (which will be paid by the owners as a strata corporation expense)
- Order that the administrator exercise or perform some or all of the powers and duties of the strata corporation and
- Relieve the strata corporation of some or all of its powers and duties

Unless the Supreme Court otherwise orders, an administrator must obtain approval of the owners, by a resolution passed by a majority vote, a 3/4 vote or a unanimous vote (as the case may be), for all matters that require owners' approval under the *Strata Property Act*.

## PAYING STRATA COUNCIL MEMBERS

Some strata corporations may choose to compensate strata council members for their work. Strata council members may be paid if their remuneration is permitted by one of the following:

- The Bylaws
- A resolution passed by a 3/4 vote of the owners or
- The Annual Budget

### REFERENCES:

Strata Property Act: Sections 4, 25-29, 31-36, 40-51, 70, 76, 92-98, 103, 106, 112-118, 129-138, 144, 151, 174

Strata Property Act Regulation: Sections 4.1, 4.2, 4.4, 6.4, 6.7, 6.10

Standard Bylaws (which can be amended): Sections 5, 6, 9-14, 16-22

Important Notice: This information has been provided by AWM-Alliance Real Estate Group Ltd, compiled from the Government of British Columbia strata housing website (<http://www2.gov.bc.ca/gov/content/housing-tenancy/strata-housing/operating-a-strata/roles-and-responsibilities/strata-councils>).

The information on this website about strata housing is provided for the user's convenience as a basic starting point; it is not a substitute for getting legal advice. Learn more about the site's purpose and limits. The content on this website is periodically reviewed and updated by the Province of British Columbia as per the date noted on each page: January 17, 2017.

March 2017